

**TRANS-ALASKA PIPELINE SYSTEM RIGHT-OF-WAY
RENEWAL STATUS REPORT
State Pipeline Coordinator's Office
ADL 63574**

The State Pipeline Coordinator's Office (SPCO) is publishing this status report to provide an update on the Trans-Alaska Pipeline System (TAPS) Right-of-Way Lease renewal process. On June 28, 2002, the SPCO submitted *The State Pipeline Coordinator's Report for Renewal of the Trans-Alaska Pipeline Right-of-Way Lease* ("June 2002 SPCO Report") to the Commissioner, providing the primary basis for the Commissioner's *Proposed Written Determination* on the TAPS lease renewal application published July 5, 2002.

Several key TAPS renewal milestones have now been achieved, including completion of the public comment and hearing process, completion of a number of 2002 Joint Pipeline Office (JPO) surveillance and monitoring activities, and follow-up on past JPO oversight findings. This Report is provided to supplement the June 2002 SPCO Report by providing a summary of the current status of these renewal processes and issues for the Commissioner's consideration in making the final TAPS Lease renewal determination.

RENEWAL PROCESS

As discussed in the June 2002 SPCO Report, TAPS operates under a State of Alaska Pipeline Right-of-Way Lease issued pursuant to the provisions of AS 38.35, the "Right-of-Way Leasing Act". On May 2, 2001, Alyeska Pipeline Service Company ("Alyeska"), agent for the Lessee's, submitted a Pipeline ROW Lease Renewal Application for the Trans-Alaska Pipeline, ADL 63574, and all related facilities, in compliance with the requirements of 11 AAC 80.065(a).

The term provision of the Alaska Right-of-Way Act (AS 38.35.110) specifies that the Lease is renewable for a period up to 30 years, so long as the Lessee is:

1. in commercial operation;

2. in full compliance with state law; and
3. in compliance with all terms of the Lease.

The June 2002 SPCO Report documented the JPO's TAPS oversight and monitoring programs; reviewed JPO monitoring reports, surveillances, and reviews of Lessees' documentation of TAPS maintenance and operations issued since 1997; and included reports from each State regulatory agency documenting the Lessees' compliance with all applicable laws and regulations within the agency's respective scope of authority. The June 2002 SPCO Report concluded that the Lessees had met the three renewal requirements set out in AS 38.35.110 (in commercial operation, in compliance with state law, and in compliance with the lease) and recommended renewal of the TAPS Lease for the requested 30-year renewal term. Following review of the information and documentation provided, the Commissioner issued a Statement of Reasons and Proposed Written Determination ("Proposed Determination") on July 5, 2002, finding that the Lessee's had satisfied the renewal requirements of AS 38.35.110 and that the TAPS Lease should be renewed for the requested term of 30 years.

Public comments on the Commissioner's Proposed Determination were accepted for a period of 45 days from July 5, 2002, through August 20, 2002, and public hearings were held in Cordova, Valdez, Glennallen, Anchorage, Fairbanks, Minto, and Barrow.

2002 JPO MONITORING AND SURVEILLANCE EFFORTS

JPO staff implemented a line-wide (approximately 740 miles of the 800-mile pipeline) monitoring/inspection program focused on the following Lease stipulations: electronically operated device (stipulation 1.13); camping, hunting, fishing and trapping (stipulation 1.14); small craft passage (stipulation 1.15); protection of survey monuments (stipulation 1.16); buffer strips (stipulation 2.3); erosion (stipulation 2.4); material sites (stipulation 2.6); and restoration (stipulation 2.12). These stipulations were identified for compliance monitoring as part of the 2002 Annual Work Plan. In addition, JPO staff conducted project-based oversight and regulatory compliance monitoring along the right-of-way and at related facilities. Results of the 2002 JPO surveillance and monitoring efforts are documented in the Comprehensive Monitoring

Database and the Document Tracking System, electronic filing systems used to track JPO compliance monitoring efforts and correspondence.

No findings of non-compliance were generated from these 2002 monitoring and surveillance efforts.

STATUS OF AUDIT ACTION ITEMS (AAI) AND FINDINGS

The June 2002 SPCO Report reported six open findings and two open action audit items related to the state lease. All six findings and both action audit items have now been closed through completion of corrective actions by the Lessees. The documentation of the closures of those findings and action items is set out in JPO Letter Numbers 02-048-JS (AAI 1955), 02-056-JS (AAI 2076), 02-79-DG (ANC-01-E-008/F01), 02-059-DG (ANC-02-S-337/F01), 02-046-DG (JPO-00-A-006/F03), and 02-085-DG (FBU-01-S-001/F01, F02, F03). These documents reside within the JPO Comprehensive Monitoring Database and are available to the public.

Based on all reports and other materials prepared by the SPCO, JPO, and state regulatory agencies, oversight and monitoring conducted by those agencies, and other documentation in the administrative record, the State Pipeline Coordinator has concluded that Lessee's are in compliance with all legal requirements necessary for renewal under AS 38.35.110.

PUBLIC COMMENT - MAJOR ISSUES

Through the public comment and hearing process, 342 people submitted 2,089 separate comments on the Commissioner's Statement of Reasons and Proposed Written Determination. Responses to public comments will be provided under separate cover. In sorting through the individual comments, SPCO identified six (6) key issues of broad concern addressed below:

(1) Public Comment Period

Comment: Two hundred and thirty five comments were submitted that suggested 45 days was not adequate to respond to a document of this size and magnitude. These comments were

primarily addressed to the federal Draft Environmental Impact Statement (DEIS) process, but could also apply to the state lease renewal process since the timelines were the same.

Response: DNR regulation 11 AAC 80.085 requires that the public be provided at least 30 days to submit written comments on a Commissioner's proposed determination on a pipeline lease renewal, and leaves to the Commissioner's discretion whether to schedule one or more public hearings. Because of the scope and importance of this project and the clear public interest in the renewal review, the Commissioner provided for an extended public comment period of 45 days. DNR made significant efforts to advise the public on the TAPS renewal schedule well in advance of the public comment period, and through publication of the June 2002 SPCO Report, provided a fairly concise (22-page) -- though comprehensive -- overview and analysis of (a) the statutory renewal requirements; (b) the ongoing State/Federal (JPO) monitoring and oversight program for TAPS; (c) documentation and findings on Lessees' compliance with renewal requirements; and (d) clear citation to the voluminous documentary record that provides the basis for SPCO's renewal review. Additionally, the public was provided the opportunity to comment at public hearings held in Cordova, Valdez, Glennallen, Anchorage, Fairbanks, Minto and Barrow.

(2) Citizens Oversight Committee

Comment: Three hundred and twenty four comments were received reflecting both support and opposition to creation of a new citizens oversight group to monitor TAPS.

Response: DNR has reviewed the concept of a citizen's oversight group and has determined that it would not appreciably improve existing regulatory oversight of the pipeline because: 1) the JPO monitors all aspects of pipeline operation from engineering to impact on fish and wildlife with the power to issue work orders to the pipeline's six oil company owners and; 2) is not cost effective due to duplicative efforts. However, a process to encourage the public's involvement and information exchange with the Joint Pipeline Office's regulatory agencies is supported. To this end, the Commissioner's Final Determination recommends that the JPO Executive Council take action to enhance public input, participation and information sharing.

(3) 30-Year Renewal Period

Comment: Three hundred and two commenters suggested that the lease should be renewed for a term of less than the requested 30 years. The Prince William Sound Regional Citizens' Advisory Council (PWS RCAC) specifically had questions about the Lessees' commitment to implementation of the Reliability Centered Maintenance II (RCM) process and continued use of RCM or an equivalent maintenance process for the 30-year renewal term.

Response: A long-term commitment to the continued operation of TAPS is important on both state and national levels. TAPS is a major physical asset important to national security and local and national economies. As such, it receives significant attention from state and federal regulators, citizens groups and elected officials representing local, state, and national governments. Proper maintenance and, by extension, the extended useful life of TAPS, is critical to any future oil development in northern Alaska, and the Lessees' ability to rely on a longer lease renewal term is an important factor in their consideration of the economic justification for substantial additional expenditures on maintenance and facility upgrades.

The federal government is also in the process of renewing the TAPS grant of right-of-way. The Draft Environmental Impact Statement for renewal of the grant specifies the preferred alternative is to renew the grant for a period of 30 years, citing many of the same reasons as the state.

The comments questioning the 30-year renewal term are centered on concerns with the continuing physical integrity of the TAPS facilities, and thus pipeline safety. The state's authority to regulate pipeline safety is subordinate to the federal regulatory authority -- the primary jurisdiction for pipeline safety resides with the U.S. Department of Transportation/Office of Pipeline Safety (USDOT/OPS). Title 49 of the Code of Federal Regulations, Parts 190-199 specify the requirements for design, construction, inspection, testing, operation, and maintenance of TAPS, and the USDOT/OPS is responsible for enforcement of these detailed technical requirements. Those federal regulations thus provide the technical framework for the State lease provisions on pipeline safety.

The current federal pipeline safety regulations at 49 CFR 195.452 require that a pipeline operator such as Alyeska develop and adopt an Integrity Management Program ("IMP") that integrates and assesses all available information concerning safety issues and consequences of potential failures of the regulated facility, and identifies and evaluates preventive and mitigative measures to address those issues and maintain pipeline integrity. While several current maintenance planning processes (e.g. Fitness for Purpose, Risk Management, RCM and ASME B-31) could be utilized as a framework for compliance with the federal regulatory requirements, Alyeska began using the RCM process on various physical assets in 1998, and has chosen to now incorporate RCM into its overall maintenance planning. In 2002, Alyeska revised their system Maintenance Manual MP-167 to reflect the corporate decision to incorporate the RCM process into their maintenance program. To date Alyeska has completed 48 RCM-based analyses that encompass 60 critical sub-systems.

The state lease incorporates by reference Parts 192 and 195 of the USDOT/OPS pipeline safety regulations. Under the state lease and AS 38.35, the Commissioner has the authority to evaluate and monitor Alyeska's implementation of its' maintenance program to ensure the protection of public health and safety, prevent damage to natural resources, prevent erosion, and maintain pipeline integrity. The lease specifies that Alyeska must conduct their maintenance program using sound engineering practices, to the extent allowed by the state of the art and development of technology. Thus, while the state lease (like the USDOT/OPS regulations) does not specifically endorse or require one maintenance strategy over another, it does require that Alyeska utilize a contemporary risk analysis-based maintenance planning process, of which RCM is one current example.

Finally, while use of a risk analysis-based maintenance strategy is an important element in assuring the continued integrity and safety of the TAPS facilities for the 30-year renewal term, other aspects of maintenance are also important. They include:

- (a) The comprehensive JPO regulatory and lease compliance oversight of the Alyeska maintenance program of TAPS operations during construction and maintenance;

(b) The TAPS corrosion control management plan, developed by Alyeska in conjunction with JPO, is considered a state-of-the-art model in the pipeline industry [concepts from this program were incorporated into the USDOT/OPS pipeline integrity management regulations that went into effect nationwide March 31, 2002];

(c) Cutting edge use of “smart pig” technology. Pigs are mechanical devices that travel through the pipe collecting data to assess corrosion, curvature, elevation, cracks and other features that affect pipeline integrity; and

(d) The recent evolution of USDOT/OPS regulatory focus from prescriptive to process-based regulations (as described above), and Alyeska's resulting adoption of the RCM process is central to development of an Integrity Management Program to meet these regulations.

In combination, reliance on these maintenance, inspection and management programs, which are monitored and enforced by state and federal agencies, provides a sound basis for the finding that the useful life of the pipeline, maintained in accordance with these requirements and standards, is in excess of 30 years. Considering the ongoing economic and strategic importance of the pipeline to the state and nation, there is a reasonable basis for a determination to renew the TAPS lease for a term of 30 years.

(4) Audits

Comment: Three hundred and thirteen commenters suggested that independent audits of pipeline operations be carried out periodically, such as every 5 years.

Response: Audits are one of the tools regularly used by the agencies of the Joint Pipeline Office to evaluate and regulate TAPS operations and maintenance. Examples of audits conducted over the past 10 years on TAPS facilities and management systems include: a 1993 Quality Technology Corporation audit of TAPS; BLM's 1993 audit of TAPS Employee Concerns Program; a 1994 TAPS Owner-sponsored Arthur D. Little Audit of TAPS compliance with state and federal laws, lease and grant requirements, and internal Alyeska requirements; a 1994 Alaska Occupational Safety and Health (AKOSH) electrical systems audit; the 1997 JPO audit of

Section 29 compliance; and the 2001 Det Norske Veritas comprehensive audit of Alyeska's compliance with all terms of the state lease. Audits are usually targeted at specific projects, activities, or operations that the JPO determines require information in addition to that acquired by the regular JPO monitoring program.

Audits are most useful and justified to provide supplementary information on the adequacy of the conduct of specific operations. As discussed at length in the June 2002 SPCO Report, and in the response to the 30-year renewal term issue, (Issue #3, above), the regulation, oversight, monitoring and enforcement of the TAPS operations consist of several layers of overlapping jurisdiction and regulation by the JPO, numerous state agencies, and the USDOT/OPS. Some examples of the periodic targeted reviews of TAPS operations and maintenance by member agencies of JPO include:

- On-going oil spill contingency planning (tri-annual) and response capability reviews (annual), by the Alaska Department of Environmental Conservation;
- Annual JPO field surveillance and project monitoring and;
- JPO Comprehensive Monitoring Program Reports (12 published since 1996).

Finally, Alyeska's recent adoption of the RCM risk analysis-based maintenance process, in compliance with USDOT/OPS regulations and state lease maintenance standards, will provide the JPO with a continuing assessment and analysis of TAPS critical systems and mitigation/preparedness measures. RCM is essentially an on-going system-by-system audit that determines function, failure modes, and consequence and preventative maintenance of critical systems. The SPCO anticipates that implementation of the RCM process will enhance the JPO's ability to more efficiently monitor Alyeska's critical operations. More efficient internal monitoring may actually reduce the need for supplementary audit investigations.

(5) Oil Spill Planning and Response

Comment: A total of 366 comments were received expressing general concern about Alyeska's oil spill response capabilities with an emphasis on the ability to respond to a spill in the Copper River drainage.

Response: The State Pipeline Coordinator defers to the Department of Environmental Conservation (ADEC) on issues related to oil spill planning and response. ADEC has the primary statutory responsibility and authority for oversight of TAPS oil pollution prevention and response planning under AS Chapter 46.03, Environmental Conservation, and Alaska Administrative Code Title 18, Chapter 75, Oil and Other Hazardous Substances Pollution Control.

ADEC reviews Alyeska's Oil Discharge Prevention and Contingency Plans (C-Plans) for TAPS and the Valdez Marine Terminal on a triennial schedule. Following review of the two C-plans, ADEC issues Findings Documents¹ that discuss actions taken to address various issues identified by agencies and public stakeholders during the plan review. ADEC publishes a public notice prior to the start of each C-plan review and actively solicits input from the public as well as interested organizations and communities that have a stake in pipeline and terminal oil spill prevention and response.

The Copper River drainage is one of several drainages traversed by the TAPS pipeline. As part of the oil spill planning process, risks of pipeline spills are analyzed line-wide. The most recent analysis was completed in November 2001². Factors considered in the analysis include internal corrosion data, vulnerability of above-ground sections to sabotage, seismic information, TAPS leak data and pipeline industry historical data.

A detailed ADEC response to oil spill planning and response issues is included with this report.

¹ November 29, 2001 ADEC Plan Approval and Final Consistency Determination, Trans-Alaska Pipeline System, Pipeline Oil Discharge Prevention and Contingency Plan, Fourth Edition, Rev. 0, dated May 2001, Revision A dated August 2001 and Revision B dated October 2001, ADEC Plan Number 015-CP-4131;

April 11, 2000 ADEC Plan Approval and Conclusive Consistency Determination, Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan, November 1, 1999 as revised. ADEC Plan Number 993-CP-4097.

² Risk Assessment, Trans Alaska Pipeline System, Final Report. Prepared by Capstone Engineering Services, Inc. Dated November 2001. Based on historical pipeline spill data for spills 50 bbls or greater, TAPS has a rate of about 0.4 per 1000 miles of pipeline compared to the US average of 1.1.

(6) Dismantlement, Removal and Restoration

Comment: Twenty one commenters recommended that an escrow fund be established for the dismantlement, removal and restoration (DR&R) of the line when operations are terminated.

Response: DNR believes that the legal commitment in the lease and newly required written guarantees provided by the TAPS Owners constitute adequate assurance of full-cost recovery from them for the DR&R of the ROW upon the termination of TAPS. For the purpose of TAPS renewal, DNR required that the TAPS owner companies provide corporate guarantees obligating the companies to comply with the DR&R requirements of the Lease. DNR specified that parent companies or subsidiaries with sufficient assets sign the guarantees. DNR has reviewed company financial statements to ensure sufficient resources are available to meet the anticipated obligation and determined that the written guarantees provide reasonable assurance that DR&R requirements will be fulfilled.